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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/821,449   | 04/08/2004  | Daniel Lazaretnik    | P/4514-7 CIP        | 1335             |
| 2352   | 7590        | 05/19/2005           | EXAMINER            |                  |
| OSTROLENK FABER GERB & SOFFEN<br>1180 AVENUE OF THE AMERICAS<br>NEW YORK, NY 100368403 |             |                      | MISKA, VIT W        |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2841                |                  |

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

211

# Office Action Summary

Application No.

10/821,449

Applicant(s)

LAZARETNIK, DANIEL

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claims 1-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.
2. Claims 1-29 are further rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.
3. The specification and claim 1 refer to "a single series of hours indicia" and "first and second time movements are arranged in spaced relationship to each other with the hours and minute handles of each movement operating in conjunction

with said series of hours indicia". It is not clear from the descriptive portion how one of ordinary skill in the art would construct the two movements corresponding to each set of hour and minute hands, respectively, such that the hours and minute "handles" operate in conjunction with the hours indicia to indicate the correct time. Applicant has failed to indicate whether the hands of each movement are designed to indicate time by coordinating rotation thereof with hours indicia 38 around the oval dial, or whether the two movements correspond to conventional movements for driving time indicating hands around a circular dial. It appears that the former arrangement is implied by the claim language and specification. (Page 3, lines 17-18 suggests the hands are set to a desired hours indicia). However, if this is the contemplated embodiment, the specification lacks adequate description thereof for a proper understanding of the invention and to convey to one skilled in the art that applicant was in possession of the invention.

4. Further, the specification lacks adequate description to enable one of ordinary skill in the art to make and use the same. If the hours and minutes hands are intended to point to hours indicia 38 on the dial to indicate the correct time as implied in the specification, applicant has failed to describe the specific movements designed to accomplish this feature. A variable speed movement would be required to correctly drive each hand in a non-uniform manner, the structure of which has not been identified either by description in the specification or by reference to prior art. The implementation of such a movement would require more than routine experimentation.

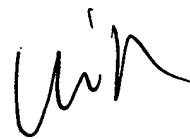
5. If applicant intended to employ conventional analog movements rotating in a uniform manner such that each side of the timepiece indicates time by means of the hands and an imaginary dial corresponding to each set of hands, then the description at page 3 noted above and elsewhere in the specification suggesting that the hands are set to a desired point on the series of hours indicia to indicate time would appear misleading and incorrect because the indicia in such an embodiment would be meaningless. Further, the language in claim 1 that the hours and minute hands operate "in conjunction with said single series of hours indicia" would appear incorrect. The indication of time by each movement would could not involve the single set of dial indicia because the rotation of the hands would not correspond to that for an oval dial.

6. Applicant is required to indicate which of the variants described above, if any, is the intended embodiment, and for the selected one correct the deficiencies noted above with respect to the description in the specification and enablement requirements. No new matter may be introduced into the disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-272-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, K. Cuneo can be reached on 571-272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vit Miska  
Primary Examiner